

## **Attachment D**

### **Analysis of Economic Impact**

Analysis of Fiscal Impact of amendments to 327 IAC 15-2; 327 IAC 15-3; 327 IAC 15-5; and 327 IAC 15-6, affecting storm water (LSA # 01-95)

#### **Regulated entities affected by the proposed rule changes**

##### **327 IAC 15-5 (Rule 5) Construction Storm Water Rule**

(1) All currently regulated construction activities are federally mandated for requiring permit coverage. Federally designated entities include all construction activities within Indiana where five (5) acres or more of land disturbance will occur.

(2) Newly regulated entities are federally mandated for requiring permit coverage as an expansion of the existing Rule 5 program. The expansion of federally designated entities includes all construction activities within Indiana where one (1) acre or more of land disturbance will occur. Therefore, the new additional area of designation for this existing program will be all construction activities between one (1) and up to five (5) acres of land disturbance.

##### **327 IAC 15-6 (Rule 6) Industrial Storm Water Rule**

(1) All currently regulated industrial facilities are federally mandated as needing permit coverage. Regulated entities are designated based on Standard Industrial Classification (SIC) code.

(2) Newly regulated facilities. The State has designated three new industrial sectors for regulation under Rule 6, which are not designated under the current federal storm water program. These three new sectors are:

- (a) Agricultural fertilizer/pesticide storage facilities. Based on storage capacities.
- (b) All truck refueling facilities with on-site vehicle maintenance operations
- (c) All solid waste transfer stations

#### **Narrative discussion of fiscal impact**

##### **Summary of Federal Economic Analysis for new revisions to Rule 5**

The federal Environmental Protection Agency was required to perform a fiscal impact analysis as part of the development of the Phase II Storm Water regulations. This analysis, the federal "Economic Analysis of the Final Phase II Storm Water Rule" (EPA document #833-R-99-002), was published in October 1999. EPA estimated national Phase II costs for newly

regulated construction projects between 1 acre and up to 5 acres of land disturbance. The methodology involved determining construction and postconstruction costs. Federal construction costs were developed by multiplying the number of construction starts by the cost of Best Management Practices (BMPs) in different categories of sites. (Sites were categorized by acreage ranges. Census Bureau building permit information and construction start data from 14 of 75 researched municipalities were the sources for this information.) Construction BMP type was selected using appropriateness of practice under three soil erodibility criteria (low/medium/high), slope conditions (3/7/12 percent), and site size (1, 3, 5, and 7 acres) BMP types evaluated were silt fence, mulch, seed & mulch, stabilized construction entrance, stone check dam, earthen dike, and sediment trap. Using this available data, the estimated universe of Phase II construction starts was 129,675 (19,452 of those starts were expected to take advantage of the national waiver provision, thus leaving 110,223 starts).

Federal postconstruction costs were developed by multiplying a structural BMP (choosing between detention pond, infiltration trench, infiltration basin, swale, and sand filter) cost for each site by the number of construction starts that are located within Phase II urbanized area counties. A universe of 13,364 construction starts subject to postconstruction requirements was federally estimated.

Table 1, below, shows the federal costs estimated by EPA in the Economic Analysis Document.

<b>TABLE 1: FEDERAL CONSTRUCTION PROGRAM COST SUMMARY TABLE</b>	
<b>Expenditure</b>	<b>Averaged Cost</b>
Construction BMP Implementation:	
1-2 Acre Category	\$1,206 per site
2-4 Acre Category	\$4,598 per site
4-5 Acre Category	\$8,709 per site
Construction Implementation	\$499,771,558 annually (110,223 starts x category cost)
Postconstruction Implementation (high)	\$178,255,669 annually (13,364 starts x category cost)
Postconstruction Implementation (low)	\$44,563,917 annually (25% of high)

Table 2, below, shows the federal construction implementation costs attributed to Indiana and the IDEM estimated postconstruction implementation figures based on the costs given in the federal Economic Analysis document.

<b>TABLE 2: SEPARATED FEDERAL CONSTRUCTION PROGRAM COSTS ATTRIBUTED TO INDIANA</b>	
<b>Expenditure</b>	<b>Annual Cost</b>
Construction Implementation	\$25,753,558 (5,671 (1.3 percent growth adjustment with no waiver) starts for zones M and N), which represents approximately

	5% of the total National Costs
Estimated Postconstruction Implementation	\$2,230,000 - \$8,910,000, which represents approximately 5% of the total National Range Costs
ESTIMATED FEDERAL COST TOTAL FOR INDIANA:	\$27,900,000 - \$34,600,000

#### Summary of Indiana's Fiscal Impact Analysis for new revisions to Rule 5

IDEM as part of its Storm Water rulemaking process, has evaluated whether all of the costs for construction site operators to comply with Rule 5 were previously considered in the federal Economic Analysis document. Costs to IDEM, IDNR, and the county SWCDs for implementing the Rule 5 program were also evaluated. Local governments or other entities that will be regulated by new draft Rule 13 (327 IAC 15-13) will incur costs for implementing a construction program equivalent to Rule 5 in their jurisdictional areas. Their costs were previously considered in the IDEM prepared fiscal analysis for that rulemaking.

#### **Costs to Regulated Construction Site Permittees**

IDEM has sought to identify those provisions contained within the draft 327 IAC 15-2 (Rule 2), 327 IAC 15-3 (Rule 3), 327 IAC 15-5 (Rule 5), and 327 IAC 15-6 (Rule 6) rule language that were not accounted for within the federal economic analysis. IDEM first identified those areas of the draft rule that were not identically contained within the federal register rule language. For Rules 2, 3, and 5, all of the proposed changes were either attributable to a federal requirement (and thus accounted for in the federal fiscal analysis) or do not have a financial impact of the regulated community. The estimated federal costs do not take into account that in Indiana single family residential dwelling construction activities disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale, would not be required to automatically submit a notice of intent and construction plans to the agency. Therefore, the federal estimated range would be lower after subtracting the savings realized from these family residential sites.

#### **Costs to State IDEM Storm Water Group, IDNR Division of Soil Conservation, and County Soil and Water Conservation Districts for Program Implementation**

Since the Phase II Storm Water regulations will require more construction sites to be regulated beyond the current Rule 5 program, IDEM, IDNR, and the County SWCDs will incur more expenditures to implement the expanded program. IDEM and IDNR evaluated the increase in expenditures and current permit fee revenues.

#### Summary of Federal Economic Analysis for new revisions to Rule 6

Because the only change under Phase II federal regulations for the industrial storm water program was the allowance for a no exposure exclusion, no additional federal costs were associated with the industrial storm water program changes. The federal Economic Analysis accounts for the savings realized to the regulated entities who are eligible for the “conditional no exposure exclusion” and therefore would be excluded from the need to apply for permit coverage.

### Summary of Indiana’s Fiscal Impact Analysis for new revisions to Rule 6

#### **Costs to Regulated Facilities**

IDEM has sought to identify those provisions contained within the draft 327 IAC 15-2 (Rule 2), 327 IAC 15-3 (Rule 3), 327 IAC 15-5 (Rule 5), and 327 IAC 15-6 (Rule 6) rule language that were not accounted for within the federal economic analysis. IDEM first identified those areas of the draft rule that were not identically contained within the federal register rule language. In Rule 6, only one area was identified as not being identically contained within the federal register rule language. That area is the applicability section (327 IAC 15-6-2), which designates three (3) additional facility categories for state regulation not currently regulated under federal storm water language. Those three new categories are listed in Attachment A.

Attachment A depicts the additional costs incurred by industrial facilities currently regulated under Rule 6, and those three categories of facilities subject to new designation under the additional categories from this rulemaking. The estimated total number of industrial facilities that will be subject to regulation under the revised Rule 6 is 3500. Of the 3500 facilities, 2770 (or 79 percent) of the total number of facilities are currently regulated, and this rulemaking will not cause any additional costs. Only facilities under the three newly designated categories (which account for approximately 730, or 21 percent, of the total number of facilities) will experience costs not accounted for by the federal fiscal impact. These costs are listed in Attachment B and Attachment C. For the 730 newly regulated facilities, the total estimated cost of this rulemaking is \$1,433,720 to \$1,941,800.

Attachment B shows the cost estimates for submitting a Notice of Intent (NOI), developing a SWP3, developing and submitting annual reports, and state application/annual fees. The cost figures were obtained from environmental consulting firms located in Indiana. The NOI and application fee are one-time costs per each five (5) year permit term. The initial SWP3 development would be a one-time cost over the life (including permit renewals) of the general permit. Small costs could be associated with minor modifications or updates to the SWP3, but they would be significantly lower than the initial cost of developing the plan. By definition annual reports, annual fees, and annual sampling would be costs experienced each year for the life of the permit. These cost estimates for Rule 6 compliance could be less if a facility chose to perform some or all of the work in house to develop the NOI, SWP3, and collect sampling data.

Attachment C shows the cost estimates for collection and analysis of one (1) annual grab sample. The cost figures for sample collection were obtained from regulated facilities, environmental consulting firms, and environmental labs located in Indiana. The cost figures for analysis of samples are from environmental labs located in Indiana.

The breakdown of the new category rulemaking costs incurred for Rule 6 over a five (5) year permit term per regulated facility is as follows:

<b>Cost Item</b>	<b>Initial Cost Per Facility (1<sup>st</sup> year or one-time cost)</b>	<b>Total Cost Per Facility Over 5-year Permit Term</b>	<b>Cost Per Facility Per Year (Total Cost/5 years)</b>
<i>SWP3 Development</i>	\$2568 - \$4767	\$2568 - \$4767	\$514 - \$953
<i>NOI Submittal</i>	\$867 - \$1233	\$867 - \$1233	\$173 - \$247
<i>Grab Sample Collection</i>	\$274	\$1370	\$274
<i>Grab Sample Analysis</i>	\$143	\$715	\$143
<i>Annual Report</i>	\$750 - \$933	\$3750 - \$4665	\$750 - \$933
<i>Application Fee</i>	\$50	\$50	\$10
<i>Annual Fee</i>	\$100	\$500	\$100
<b><i>Totals</i></b>	<b>\$4652 - \$7500</b>	<b>\$9320 - \$13,300</b>	<b>\$1964 - \$2660</b>